

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 3:06-cr-151-MEF
	)	
JEFFREY DOUGLAS COSBY	)	

**ORDER**

On August 3, 2006, the government filed a Motion to Continue Trial (Doc. #29) and the defendant filed a response on August 14, 2006 (Doc. #32). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that there is a pending motion to suppress search. The government does not believe that the evidentiary issues can be resolved before the September 18, 2006 trial date. The court agrees with this assessment. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this

case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991) (reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the government's motion filed on August 3, 2006 is GRANTED;
2. That the trial of this defendant is continued from the September 18, 2006 trial term to the December 4, 2006 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the December 4, 2006 trial term.

DONE this 22nd day of August, 2006.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE